

11/12

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Christopher M. Palermo,

Plaintiff

v.

Rockingham County Department of
Corrections, Al Wright & Kent Threlfail

Defendants.

Civil Action No. 08-cv-00087-JD
Approved and adopted as a pretrial
scheduling order. Trial 11/3/09

James R. Mulrhead
James R. Mulrhead
U.S. Magistrate Judge
Date: 11/12/09

DEFENDANT'S PROPOSED DISCOVERY PLAN
PURSUANT TO Fed.R.Civ.P. 26(f)

DATE/PLACE OF CONFERENCE:

Pursuant to Fed. R. Civ. P. 26(a)(1)(E), defendant's counsel has not conferenced this matter with plaintiff. A copy of this proposed plan has been forwarded to the plaintiff.

COUNSEL PRESENT/REPRESENTING:

~~Ralph Holder~~, pro se plaintiff
Brian J.S. Cullen for Rockingham County Department of Corrections, Al Wright and
Kent Threlfail

CASE SUMMARY**THEORY OF LIABILITY:**

Plaintiff alleges that the Rockingham County Department of Corrections violated his First Amendment rights by: (a) refusing to provide a religious diet; (b) refusing to permit use of ritual items ; and (c) refusing to recognize the Wicca religion. He also alleges that the defendants denied him access to the courts by failing to maintain an adequate law library.

THEORY OF DEFENSE:

Defendants deny all liability and assert that the plaintiff failed to exhaust administrative remedies prior to filing this suit. Defendants assert defenses of qualified immunity, discretionary function immunity, and other applicable immunities.

DAMAGES:

Plaintiff seeks \$50,000, per his civil action cover sheet.

DEMAND:

January 15, 2009

OFFER (if any):

February 28, 2009

JURISDICTIONAL QUESTIONS:

None.

QUESTIONS OF LAW:

Whether the plaintiff complied with the Prisoner Litigation Reform Act.
Whether defendants were entitled to qualified, official or discretionary function immunity on all counts.
Defendants reserve the right to supplement the questions of law as discovery proceeds.

TYPE OF TRIAL:

Jury.

DISCOVERY

TRACK ASSIGNMENT:

Standard —12 months

DISCOVERY NEEDED:

Plaintiff will seek any and all information related to the plaintiff's claims and defenses asserted or to be asserted by the defendants.

Defendants will seek all documents and other evidence of damages to the plaintiff and evidence of plaintiff's religious and medical history. Further discovery will be determined as plaintiff's claims are more fully described. Defendants will seek to depose the plaintiff.

MANDATORY DISCLOSURES (Fed.R.Civ.P.26(a)(1))

The parties will waive mandatory disclosures pursuant to Rule 26(a)(1)(E).

ELECTRONIC DISCOVERY

The parties will comply with all electronic discovery rules. Inadvertent waiver is not to be construed as a general waiver of applicable privileges.

COMPLETION OF DISCOVERY:

Thirty (30) days prior to trial.

INTERROGATORIES:

A maximum of ²⁵~~30~~ interrogatories by each party to any other party. Responses due 45 days after service unless otherwise agreed to pursuant to Fed.R.Civ.P. 29.

ISSUES RE: CLAIMS OF PRIVILEGE

The parties agree that should material protected by the attorney-client privilege and/or the work product doctrine be inadvertently produced during discovery, such material will not constitute a general waiver of privilege.

REQUESTS FOR ADMISSION:

A maximum of 25 requests for admission by each party to any other party. Responses due 30 days after service unless otherwise agreed to pursuant to Fed.R.Civ.P. 29.

DEPOSITIONS:

A maximum of 5 depositions by plaintiff and 5 by defendants. Each deposition limited to maximum of 8 hours unless extended by agreement of the parties.

DATES OF DISCLOSURE OF EXPERTS AND EXPERTS' WRITTEN REPORTS AND SUPPLEMENTATIONS

Plaintiff: July 1, 2009
Defendant: September 1, 2009

CHALLENGES TO EXPERT TESTIMONY:

Sixty (60) days before trial.

OTHER ITEMS

JOINDER OF ADDITIONAL PARTIES:

Plaintiff: January 30, 2009
Defendants: March 1, 2009

THIRD-PARTY ACTIONS:

Plaintiff: January 30, 2009
Defendants: March 1, 2009

AMENDMENT TO PLEADINGS:

Plaintiff: January 30, 2009
Defendants: March 1, 2009

DISPOSITIVE MOTIONS:

To Dismiss: April 15, 2009
For Summary Judgment: August 1, 2009

SETTLEMENT POSSIBILITIES:

The parties are not presently in a position to evaluate settlement.

JOINT STATEMENT RE: MEDIATION:

The parties are not presently in a position to evaluation mediation or its benefit in this case, and therefore do not agree to conduct same. Should discovery suggest that mediation would be beneficial, parties will notify the court.

TRIAL ESTIMATE:

2-3 days

TRIAL DATE:

November, 2009.

PRELIMINARY PRETRIAL CONFERENCE:

October, 2009

OTHER MATTERS:

N/A

Respectfully submitted,

ROCKINGHAM COUNTY HOUSE OF
CORRECTIONS, SUPERINTENDENT AL
WRIGHT, AND REV. KENT THRELFAIL

By Their Attorneys,

CULLEN COLLIMORE, PLLC

Date: 11/4/08

By: /s/ Brian J.S. Cullen
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CERTIFICATION

I hereby certify that a copy of the foregoing was forwarded via postage prepaid first class mail this 4th day of November, 2008 to Christopher Palermo, #12437, NH State Prison for Men, 281 North State Street, PO Box 14, Concord, NH 03302-0014, pro se.

/s/ Brian J.S. Cullen
Brian J.S. Cullen